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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

NO169US

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on

Feb. 11, 2008

Signature

Frank J. Kozak

Typed or printed name

FRANK J. KOZAK

Application Number

10/620,732

Filed

7-16-2003

First Named Inventor

WEILAND

Art Unit

3663

Examiner

TO

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐

applicant/inventor.

☐

assignee of record of the entire interest.

See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

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Registration number 32,908

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Feb. 11, 2008

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☐

*Total of _____ forms are submitted.

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PATENT
Case No. N0169US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
MICHAEL WEILAND et al.)
Serial No. 10/620,732) Group: 3663
Title: METHOD OF REPRESENTING) Examiner:
ROAD LANES) TUAN C. TO
Filed: July 16, 2003)

REASONS FOR PRE-APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop AF
Commissioner for Patents
Alexandria, Virginia 22313-1450

Dear Sir:

Applicant requests review of the final Office Action mailed October 31, 2007 because the Examiner made material errors of fact and law in concluding the Applicant's Claims 1-12 and 14-21 were anticipated by U.S. Pat. No. 5,902,350 ("Tamai"). As explained below, this rejection is premised on facts that are directly contradicted by Tamai and therefore this rejection should be withdrawn.

I. CLEAR FACTUAL DEFICIENCY OF THE REJECTION

In Applicant's previous response, mailed August 9, 2007, Applicant explained how the Examiner had misinterpreted Tamai. Applicant explained that the pending claims relate to a way to represent "*lanes with a road database*." Applicant further explained that although Tamai disclosed a navigation system with a database of map information, the Tamai database did not have the features of the "*road database*" as recited in Applicant's claims. Applicant pointed out that the Examiner relied on passages and figures from Tamai that showed actual road intersections instead of what Tamai

disclosed was contained in the database of map information used by the Tamai navigation system.

In the Response to Amendment at page 5 of the final Office Action, the Examiner attempted to address Applicant's explanation. However, in attempting to address Applicant's explanation, the Examiner introduced new mistakes. These new mistakes are not just errors of interpretation, but plain factual misstatements of the Tamai prior art reference. Four of these new mistakes are identified below.

In the Response to Amendment at page 5 in the final Office Action, the Examiner stated:

The map database (306) as shown in figure 7 and the associated text in column 6, lines 31-56, showing the data stores road attribute data identifying characteristics of roads, which are physical lanes. Such the physical [sic] can be found in figure (3a). The intersection (36) as shown in figure (3a) is stored in the map database of the storage medium (126) . . . [Emphasis added.]

The following is the relevant passage from Tamai that relates to FIGS. 3(a) and 3(b):

FIG. 3(a) is a representation of an intersection 36 including N/S street 38, east street 40, and west street 42. N/S street includes a median 44. The intersection 36 is represented in the map database as shown in FIG. 3(b) [Tamai, column 3, line 3-6, emphasis added.]

The above quoted passage from Tamai directly contradicts the Examiner's position in the final Office Action. The Examiner's position that the intersection 36 as shown in FIG. 3(a) is stored in the map database is plainly wrong. Instead, Tamai states that the intersection is represented in the map database as shown in FIG. 3(b). Because the rejection relies on features shown in FIG. 3(a) that are not shown in FIG. 3(b), the rejection is in error.

The following statement by the Examiner in the Response to Amendment at page 5 in the final Office Action is also incorrect:

The intersection (36) as shown in figure (3a) is stored in the map database of the storage medium (126), wherein said map database stores road attribute data identifying characteristics of roads, roads, places on the map, road features such as dividers, one-way restrictions, surface, speed limit, shape, elevation, etc., and data indicating what linearly extending physical features are adjacent to and extend along the physical road lane on the right side and a left side. [Emphasis added.]

The following is the passage from Tamai that the Examiner is misquoting.

The data base further comprises road attribute data identifying characteristics of roads or places on the map, including, but not limited to, road and place names; road features such as dividers, one-way restrictions, surface, speed limit, shape, elevation; and road classifiers such as freeway, expressway, artery, street, access, and connector, for example. [Tamai at column 5, lines 46-52, emphasis added.]

A comparison of these two passages shows unequivocally that the Examiner misquoted Tamai. The Examiner replaced the actual text from Tamai that states "*road classifiers such as freeway, expressway, artery, street, access, and connector*" with language quoted from Applicant's claim ("*data indicating what linearly extending physical features are adjacent to and extend along the physical road lane on the right side and a left side*"). The language quoted from Applicant's claim (i.e., "*data indicating what linearly extending physical features are adjacent to and extend along the physical road lane on the right side and a left side*") is not found or disclosed anywhere in Tamai.

Next, the following statement by the Examiner in the Response to Amendment at page 5 in the final Office Action is incorrect:

For example, in figure 2a, and associated text in column 2, lines 41-65, the left turn lane 30 is a linearly feature adjacent to the road lane 24 on the right and another road lane on the left side).

This statement by the Examiner is plainly incorrect. The following passage from Tamai relates to FIGS. 2(a) and 2(b):

FIG. 2(a) is a representation of a three-way "T" intersection 22 comprising N/S street 24 and abutting street 26. As shown in the figure, N/S street 24 includes a median 28 and a turn lane 30 for allowing access to abutting street 26 from the northbound portion of N/S street 24. The intersection 22 is represented in the map database as shown in FIG. 2(b), which includes a road 24' corresponding to the northbound portion of N/S street 24, a road 24" corresponding to the southbound portion of N/S street 24, a road 26' corresponding to abutting road 26, and a connector 30' corresponding to turn lane 30. [Tamai at column 2, lines 42-51; emphasis added.]

The above quoted passage from Tamai directly contradicts the Examiner. Contrary to what the Examiner stated, FIG. 2(a) does not show what is stored in the Tamai map database. Instead, Tamai explicitly states that what is stored in the database

is shown in FIG. 2(b). Because the rejection relies on features shown in FIG. 2(a) but not in FIG. 2(b), the rejection is wrong.

Finally, the following statement by the Examiner in the Response to Amendment at page 5 in the final Office Action is incorrect:

Tamai further discloses that the turn lane (30), which is a sub-lane of the physical lane (24), is retrieved from said database (figure 2a).

The relevant passage from Tamai is the same as the one quoted above:

FIG. 2(a) is a representation of a three-way "T" intersection 22 comprising N/S street 24 and abutting street 26. As shown in the figure, N/S street 24 includes a median 28 and a turn lane 30 for allowing access to abutting street 26 from the northbound portion of N/S street 24. The intersection 22 is represented in the map database as shown in FIG. 2(b), which includes a road 24' corresponding to the northbound portion of N/S street 24, a road 24" corresponding to the southbound portion of N/S street 24, a road 26' corresponding to abutting road 26, and a connector 30' corresponding to turn lane 30. [Tamai at column 2, lines 42-51, emphasis added.]

In direct contradiction to the Examiner, the foregoing passage from Tamai makes it clear that "turn lane 30" and "N/S street 24", shown in FIG. 2(a), are not in the Tamai map database. Instead, Tamai states that the representation of the intersection 22 is contained in the map database shown in FIG. 2(b). FIG. 2(b) of Tamai shows connector 30' instead of turn lane 30 and roads 24' and 24" instead of N/S street 24.

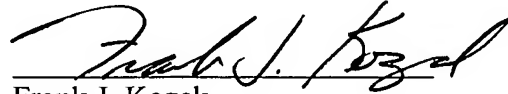
Applicant has shown four instances in the final Office Action that are plainly wrong. These are not issues of interpretation. These are positions in the final Office Action that are plainly and unequivocally contradicted by explicit, quoted statements in the single applied prior art reference Tamai. Because the final Office Action is premised on these errors, the rejection should be withdrawn.

II. CONCLUSION

In conclusion, Tamai, if read properly, does not anticipate Applicant's claims. Tamai fails to disclose "*data indicating what linearly extending physical features are adjacent to and extend along the represented physical road lane on a right side and a left side thereof*", as recited in Applicant's independent Claim 1. Tamai also fails to disclose "*associating with at least some data representations of physical road lanes data*

indicating a sublane of the represented physical road lane” as recited in Applicant’s independent Claim 17. Accordingly, Applicant’s claims should be allowed.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Frank J. Kozak", written over a horizontal line.

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